RochesterTel Center
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Gregg C. Sayre
Senior Corporate Attorney

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BY SPECIAL MESSENGER

March 27, 1992

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Re: CC Docket No. 92-13 -- In the Matter of Tariff Filing Requirements for Interstate Common Carriers

Dear Ms. Searcy:

Enclosed for filing please find the original and nine (9) copies of the Comments of RCI Long Distance, Inc. in the above-captioned proceeding. As specified in the Commission's Notice of Proposed Rulemaking, two copies of these comments have been filed with the Policy and Program Planning Division and one copy to the Downtown Copy Center.

Please date-stamp the enclosed photocopy of this letter indicating receipt and return it to the undersigned in the self-addressed postpaid return envelope provided.

Very truly yours,

Gregg C. Sayre
Senior Attorney

GCS/ld
Enclosures
(1760K)

xc: Downtown Copy Center
Policy and Program Planning Division

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Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Tariff Filing Requirements for Interstate Common Carriers	CC Docket No. 92-13

COMMENTS OF RCI LONG DISTANCE, INC.

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Gregg C. Sayre, Esq.
Of Counsel

DATE: March 27, 1992

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Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of

Tariff Filing Requirements for Interstate Common Carriers

CC Docket No. 92-13

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COMMENTS OF RCI LONG DISTANCE, INC.

RCI Long Distance, Inc. ("RCI"), a reseller providing intrastate, interstate and international common carrier telecommunications services, urges the Commission to retain its long-standing forbearance policy allowing nondominant Interexchange Carriers ("IXCs") the option of filing interstate tariffs.

All of the reasons underlying the Commission's forbearance policy ten years ago continue to apply. Traditional tariff filing requirements continue to be unnecessary, because nondominant IXCs continue to lack market power. The forbearance policy has proved to be a success, in that competition in the IXC marketplace is more robust and customers have more choices of carriers, services and pricing options than they had ten years ago. Retreating to the Commission's pre-divestiture regulatory policies would damage competition by imposing substantial and unnecessary regulatory costs and delays on a working market. Returning to traditional tariff requirements would provide an incentive against innovations in pricing and service options, because each competitor would be given both the time to examine the details of each new offering and time to respond to it. In such an environment, the benefits to any carrier from an innovation would be small and transitory, so that the innovation would be less likely to occur. Similarly, the publication of all rates would inhibit price competition, because all carriers would constantly monitor each others' prices and would tend to change prices only slowly, through parallel behavior.

The current policy of forbearance, on the other hand, allows competition to flourish. Market forces are sufficient to guarantee that rates and practices will be reasonable, because it is so simple and inexpensive for a dissatisfied customer to pick another carrier. New IXCs can enter niche markets for interstate services without costly filings and lengthy regulatory delays.

Congress has by implication wholly endorsed the status quo of forbearance. In the Telephone Operator Services Consumer Improvement Act of 1990, 47 U.S.C. §226, Congress required "informational" tariffing of only a limited class of interstate services (operator services from aggregator locations) by a limited class of IXCs (providers of operator services). Congress specifically authorized the Commission to discontinue this requirement after four years. 47 U.S.C. §226(h)(1)(B). These actions are totally inconsistent with the assumption of any intention on the part of Congress that <u>all</u> IXCs must file formal (as opposed to informational) tariffs for <u>all</u> interstate services.

If Congress had the intention to require full interstate tariffs from all interstate carriers, it would not have enacted the very limited tariffing requirements of §226. Congress has thus specifically authorized the continuation of the status quo, in which not all carriers file tariffs, and in which not all interstate services are subject to the tariffing requirement. As noted by the Commission, this action of Congress was subsequent to the Supreme Court's decision in Maislin Industries, U.S., Inc. v. Primary Steel, Inc., 110 S. Ct. 2759 (1990), interpreting the Interstate Commerce Act. The Commission is therefore free to conclude that its policy of forbearance is working precisely as intended, and that it should be continued.

Respectfully submitted,

RCI LONG DISTANCE, INC.

Josephine S. Trubek / LH Z

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Gregg C. Sayre, Esq.
Of Counsel

DATE: March 27, 1992

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